

REFERENCE TITLE: **dust control practices; technical correction**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# **HB 2181**

Introduced by  
Representative Konopnicki

AN ACT

AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 49-457, Arizona Revised Statutes, is amended to  
3 read:

4       49-457. Agricultural best management practices committee;  
5               members; powers; permits; definitions

6       A. A best management practices committee for regulated agricultural  
7 activities is established.

8       B. The committee shall consist of:

9           1. The director of environmental quality or the director's designee.  
10          2. The director of the Arizona department of agriculture or the  
11 director's designee.

12       3. The dean of the college of agriculture of the university of Arizona  
13 or the dean's designee.

14       4. The state director of the United States natural resources  
15 conservation service or the director's designee.

16       5. One person actively engaged in the production of citrus.

17       6. One person actively engaged in the production of vegetables.

18       7. One person actively engaged in the production of cotton.

19       8. One person actively engaged in the production of alfalfa.

20       9. One person actively engaged in the production of grain.

21       10. One soil taxonomist from the university of Arizona college of  
22 agriculture.

23       C. The governor shall appoint the members designated pursuant to  
24 subsection B, paragraphs 5 through 10 of this section for a term of six  
25 years. Members may be reappointed. Members are not entitled to compensation  
26 for their services but are entitled to receive reimbursement of expenses  
27 pursuant to title 38, chapter 4, article 2.

28       D. The committee shall elect a chairman from the appointed members to  
29 serve a two year term.

30       E. The committee shall meet at the call of the chairman or at the  
31 request of a majority of the appointed members.

32       F. The department of environmental quality, the Arizona department of  
33 agriculture and the college of agriculture of the university of Arizona shall  
34 cooperate with and provide technical assistance and any necessary information  
35 to the committee. The department of environmental quality shall provide the  
36 necessary staff support and meeting facilities for the committee.

37       G. Notwithstanding subsections I, J and K of this section, a person  
38 WHO IS engaged in a regulated agricultural activity on August 21, 1998 shall  
39 comply with the general permit as provided in subsection H of this section by  
40 December 31, 2001. A person who commences a regulated agricultural activity  
41 after December 31, 2000 shall comply with the general permit within eighteen  
42 months of commencing the activity.

43       H. By June 10, 2000, the committee shall adopt, by rule, an  
44 agricultural general permit specifying best management practices for  
45 regulated agricultural activities to reduce PM-10 particulate emissions. A

1 person WHO IS subject to an agricultural general permit pursuant to this  
2 section is not subject to a permit issued pursuant to section 49-426 except  
3 as provided in subsection K of this section. The committee shall adopt by  
4 rule a list of best management practices, at least two of which shall be used  
5 to demonstrate compliance with applicable provisions of the general permit no  
6 later than December 31, 2007. Best management practices may vary within the  
7 regulated area, according to regional or geographical conditions or cropping  
8 patterns. The director shall submit the rule to the United States  
9 environmental protection agency as a revision to the applicable  
10 implementation plan no later than December 31, 2007.

11 I. If the director determines that a person WHO IS engaged in a  
12 regulated activity is not in compliance with the general permit, and that  
13 person has not previously been subject to a compliance order issued pursuant  
14 to this section, the director may serve upon the person by certified mail an  
15 order requiring compliance with the general permit and notifying the person  
16 of the opportunity for a hearing pursuant to title 41, chapter 6, article  
17 10. The order shall state with reasonable particularity the nature of the  
18 noncompliance and shall specify that the person has a period that the  
19 director determines is reasonable, but is not less than six months, to submit  
20 a plan to the supervisors of the natural resource conservation district in  
21 which the person engages in the regulated activity that specifies the best  
22 management practices from among those adopted in rule pursuant to subsection  
23 H of this section that the person will use to comply with the general permit.

24 J. If the director determines that a person WHO IS engaged in a  
25 regulated activity is not in compliance with the general permit, and that  
26 person has previously submitted a plan pursuant to subsection I of this  
27 section, the director may serve upon the person by certified mail an order  
28 requiring compliance with the general permit and notifying the person of the  
29 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The  
30 order shall state with reasonable particularity the nature of the  
31 noncompliance and shall specify that the person has a period that the  
32 director determines is reasonable, but is not less than six months, to submit  
33 a plan to the department that specifies the best management practices from  
34 among those adopted in rule pursuant to subsection H of this section that the  
35 person will use to comply with the general permit.

36 K. If a person fails to comply with the plan submitted pursuant to  
37 subsection J of this section, the director may revoke the agricultural  
38 general permit for that person and require that the person obtain an  
39 individual permit pursuant to section 49-426. A revocation becomes effective  
40 after the director has provided the person with notice and an opportunity for  
41 a hearing pursuant to title 41, chapter 6, article 10.

42 L. The committee may periodically reexamine, evaluate and modify best  
43 management practices. Any approved modifications shall be submitted to the  
44 United States environmental protection agency as a revision to the applicable  
45 implementation plan.

1       M. The committee shall develop and commence an education program by  
2 June 10, 2000. The education program shall be conducted by the director or  
3 the director's designee or designees.

4       N. ~~In~~ FOR THE PURPOSES OF this section, unless the context otherwise  
5 requires:

6       1. "Agricultural general permit" means best management practices that:  
7           (a) Reduce PM-10 particulate emissions from tillage practices and from  
8 harvesting on a commercial farm.

9           (b) Reduce PM-10 particulate emissions from those areas of a  
10 commercial farm that are not normally in crop production.

11           (c) Reduce PM-10 particulate emissions from those areas of a  
12 commercial farm that are normally in crop production including prior to plant  
13 emergence and when the land is not in crop production.

14       2. "Applicable implementation plan" means that term as defined in 42  
15 United States Code section 7601(q).

16       3. "Best management practices" means techniques that are verified by  
17 scientific research and that on a case by case basis are practical,  
18 economically feasible and effective in reducing PM-10 particulate emissions  
19 from a regulated agricultural activity.

20       4. "Maricopa PM 10 particulate nonattainment area" means the Phoenix  
21 planning area as set forth in 40 Code of Federal Regulations section 81.303.

22       5. "Regulated agricultural activities" means commercial farming  
23 practices that may produce PM 10 particulate emissions within the regulated  
24 area.

25       6. "Regulated area" means the Maricopa PM-10 nonattainment area and  
26 any portion of area A that is located in a county with a population of two  
27 million or more persons.